

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:
ALISSA ROSENBERG-TORRES,	:
<i>on behalf of a minor J.E.T.</i>	:
	:
Plaintiff,	:
	:
- against -	:
	:
COMMISSIONER OF SOCIAL SECURITY,	:
	:
Defendant.	:
	:
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19-CV-9980 (VSB)

OPINION & ORDER

Appearances:

Alissa Rosenberg-Torres
New York, New York
Pro se Plaintiff

Joseph Anthony Pantoja
U.S. Attorney's Office, SDNY
New York, New York
Counsel for Defendant

VERNON S. BRODERICK, United States District Judge:

Plaintiff Alissa Rosenberg-Torres ("Plaintiff") brings this action pursuant to the Social Security Act ("the Act"), 42 U.S.C. §§ 405(g), seeking judicial review of the decision of Defendant Commissioner of Social Security ("Defendant" or "Commissioner") to grant surviving parent benefits to Maria Rueda de Torres, the mother of Plaintiff's deceased husband; the decision reduced the amount of benefits otherwise payable to Plaintiff and her son, J.E.T. On December 18, 2019, I referred this case to Magistrate Judge Kevin Nathaniel Fox. (Doc. 7.) On June 11, 2021, Defendant moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure and for joinder of necessary parties pursuant to Rule 19(a) of

the Federal Rules of Civil Procedure. (Docs. 34–35.) On August 10, 2021, Plaintiff filed her opposition to Defendant’s motion. (Docs. 38–39.) Defendant filed its reply on September 7, 2021. (Doc. 43.)

This case was reassigned to Magistrate Judge Gary R. Jones on December 29, 2021. Judge Jones issued his Report and Recommendation to me on January 10, 2022. (Doc. 45.) (“Report and Recommendation” or “R&R”.) Neither party filed an objection or sought an extension to file an objection.

Before me is Judge Jones’ unobjected Report and Recommendation, which recommends that (1) Defendant’s motion seeking joinder of J.E.T. and Maria Rueda de Torres be granted, and (2) Defendant’s motion for judgment on the pleadings, where the Commissioner seeks remand for further administrative proceedings, either be denied without prejudice or be reserved pending joinder. (R&R 13.) Judge Jones’ R&R is thorough and detailed. Specifically, I agree with his finding that “an adjudication on the merits of the parties’ arguments will necessarily impair or impede the rights of Ms. Rueda de Torres, either by reversing the award of benefits or by subjecting her to further administrative proceedings,” (*id.*)

In reviewing a magistrate judge’s report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews *de novo* the parts of the report and recommendation to which the party objected. Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or a portion thereof, a district court reviews the report and recommendation, or that portion, for clear

error. *Baez v. RCO Restoration Corp.*, 20-cv-1066 (VSB) (JLC), 2021 WL 4077944, at *2 (S.D.N.Y. Sept. 8, 2021); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

Here, the Report and Recommendation was filed on January 10, 2022. Although the Report and Recommendation explicitly provided that “the parties have fourteen (14) days (including weekends and holidays) from service of this Report and Recommendation to file any objections” and that “[i]f a party fails to file timely objections, that party will not be permitted to raise any objections to this Report and Recommendation on appeal,” (R&R 14), neither party filed an objection. I therefore reviewed Judge Jones’ thorough and well-reasoned Report and Recommendation for clear error and, after careful review of the record, found none. Consequently, I adopt the Report and Recommendation in its entirety. Defendant’s motion for joinder of J.E.T. and Rueda de Torres is GRANTED, so they will have an opportunity to present their arguments either in support of or opposing the Commissioner’s award of benefits. Defendant’s motion for remand is DENIED without prejudice.

The Clerk’s Office is respectfully directed to terminate the open motions on the docket and send a copy of this order to the pro se Plaintiff.

SO ORDERED.

Dated: August 16, 2022
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style. The first name "Vernon" is written in a larger, more prominent script than the last name "Broderick".

Vernon S. Broderick
United States District Judge

